

**UNITED STATES OF AMERICA,**

**Plaintiff,**

**v.**

**JAY LOWELL JONES,**

**Defendant.**

)

) Case No. \_\_\_\_\_

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) **I N F O R M A T I O N**

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) [18 U.S.C. § 371: Conspiracy]

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## I. INTRODUCTION

1. Defendant JAY LOWELL JONES was Executive Vice-President and part owner of Commercial Financial Services, Inc. (“CFS”).

2. CFS was a “Subchapter S” corporation which was engaged in the business of purchasing and collecting delinquent credit card accounts receivable that had been “charged off” by the original owners of the consumer debt. From 1995 until it filed a petition in bankruptcy in December 1998, CFS financed its operations by sponsoring the issuance of asset-backed securities which were sold to investors in a process known as securitization.

3. As promoted by CFS, a securitization was a financial process in which assets were bundled together in a pool for sale to investors who purchased interests in the pool in the form of securities. The securitization process occurred as follows:

- a. CFS purchased accounts receivable from banks or other holders of consumer debt.
- b. CFS formed pools of the accounts receivable and sold each pool to a trust which was formed for the specific purpose of issuing securities to investors.

- c. The total proceeds from the sale of securities to investors significantly exceeded the purchase price CFS paid for the accounts receivable in the pool and provided substantial proceeds to CFS.
- d. CFS collected the payments and “serviced” the accounts receivable on behalf of the trust for a fee based on a percentage of the amount of funds collected. Under certain circumstances, CFS was permitted to sell a portion of the assets of the trust and the proceeds could be included in the amount of collections reported by CFS.
- e. The trust made principal and interest payments to the investors from the funds CFS collected on the pool of accounts receivable.
- f. CFS made monthly reports disclosing the amount of collections to the investors and rating agencies.
- g. CFS was entitled to keep any residual or additional collections of receivables made after the investors received payment of their principal and interest in full.

4. CFS sponsored the issuance of asset-backed securities by Securitized Multiple Assets Rated Trusts (“SMART”) and the Global Rated Eligible Asset Trust (“GREAT”). The pool of accounts receivable conveyed to each SMART trust was fixed; that is, it could not change and was independent from other trusts. SMART trusts had no assets or sources of funds other than its pool of accounts receivable and the funds collected from those accounts. The pool of accounts receivable conveyed to the GREAT trust remained open and assets in the form of accounts receivable could be added or retired on an ongoing basis.

5. From May 1995 through September 1998, CFS sponsored a total of fifteen securitizations ( “the CFS trusts”). Altogether, the CFS trusts issued securities totaling more than two billion dollars and from which CFS realized net proceeds in excess of \$800 million.

6. Each of the CFS trusts was “rated” for creditworthiness by at least one credit rating agency. Maintaining a high credit rating for its securities was crucial to the success of the CFS securitization process and the profitability of CFS. If a credit rating was downgraded, the securities would be reduced in value and the marketability of future securities would be diminished.

7. Dimat, Inc. (“Dimat”) was a sham corporation controlled by defendant JAY LOWELL JONES and co-conspirators which they used to make fraudulent purchases of accounts receivable from the CFS trusts in order to inflate collections and falsely create the appearance that CFS was collecting funds sufficient to make payments of principal and interest to investors.

8. Calamity Jones Entertainment, Inc. (“Calamity”) was a company owned and controlled by defendant JAY LOWELL JONES which was used by defendant JAY LOWELL JONES and co-conspirators as a conduit to transfer funds from CFS through Calamity bank accounts to Dimat in order to conceal the source of the funds used by Dimat to purchase accounts receivable from CFS trusts.

## **II. THE CONSPIRACY**

### **A. The Conspiracy and its Objects**

9. From on or about September 1, 1997, to on or about June 1, 2002, in the Northern District of Oklahoma and elsewhere, defendant JAY LOWELL JONES (“JONES”) and others known and unknown to the United States Attorney did knowingly and willfully combine, conspire, confederate and agree together and with each other to commit certain offenses against the United States, namely,

- a. Mail Fraud, in violation of Title 18, United States Code, Section 1341;
- b. Wire Fraud, in violation of Title 18, United States Code, Section 1343;

- c. Bank Fraud, in violation of Title 18, United States Code, Section 1344; and
- d. Money Laundering, in violation of Title 18, United States Code, Sections 1956 and 1957.

**B. Purpose of the Conspiracy**

10. The purpose of the conspiracy was for the defendant JAY LOWELL JONES and a co-conspirator to enrich themselves and fraudulently to obtain money by promoting the sale of asset-backed securities to investors by misrepresenting the performance of existing CFS trusts.

**C. Manner and Means of the Conspiracy**

11. It was a part of the conspiracy that defendant JAY LOWELL JONES and a co-conspirator obtained money from CFS in the form of shareholder advances and distributions of equity in order to fund purchases of accounts receivable from the CFS trusts.

12. It was a further part of the conspiracy that defendant JAY LOWELL JONES and a co-conspirator fraudulently purchased accounts receivable from the assets of the CFS trusts in order to make up for deficient collections and to falsely create the appearance that CFS was making collections sufficient to make payments of principal and interest to investors.

13. It was a further part of the conspiracy that defendant JAY LOWELL JONES and a co-conspirator fraudulently purchased accounts receivable from the CFS trusts in the name of Dimat, a sham corporation, in order to conceal the true identity of the purchasers.

14. It was a further part of the conspiracy that defendant JAY LOWELL JONES and a co-conspirator transferred funds fraudulently obtained by CFS to Dimat through Calamity bank accounts in order to conceal the source and ownership of the funds.

15. It was a further part of the conspiracy that defendant JAY LOWELL JONES and co-conspirators sent or caused to be sent by commercial interstate carriers false and fraudulent reports to rating agencies and investors which overstated collections by including the proceeds from the fraudulent sales of accounts receivable to Dimat.

16. It was a further part of the conspiracy that defendant JAY LOWELL JONES and co-conspirators concealed their ownership and control of Dimat (a) to protect the existing trusts from default; (b) to maintain a high rating for securities issued by the CFS trusts; (c) to enable CFS to continue charging servicing and management fees; and (d) to attract prospective investors to invest in new securitizations.

17. It was a further part of the conspiracy that defendant JAY LOWELL JONES and co-conspirators caused CFS to issue asset-backed securities to new investors in order to generate substantial funds for CFS without disclosing the poor performance of previous securitizations.

18. It was a further part of the conspiracy that defendant JAY LOWELL JONES and co-conspirators secretly caused proceeds from the sale of securities to new investors to be used by Dimat to purchase accounts receivable from existing CFS trusts in order to make payments of principal and interest to prior investors.

19. It was a further part of the conspiracy that, after questions arose concerning the role of Dimat and in order to conceal and cover up their fraudulent use of Dimat, defendant JAY LOWELL JONES and a co-conspirator falsely explained the transfer of CFS funds to Dimat as being payments to defendant JAY LOWELL JONES for the sale of JONES' CFS stock to a co-conspirator.

20. It was a further part of the conspiracy that defendant JAY LOWELL JONES and a co-conspirator fabricated and utilized stock transfer documents which purported to substantiate their false explanation for the transfer of funds to Dimat and obstructed investigations into Dimat's purchase of accounts receivable from the CFS trusts.

21. It was a further part of the conspiracy that defendant JAY LOWELL JONES and a co-conspirator submitted false documents to the Internal Revenue Service to support their false explanation for the transfer of funds to Dimat.

**C. Overt Acts**

In furtherance of the conspiracy and to achieve the objects of the conspiracy, defendant JAY LOWELL JONES and co-conspirators committed and caused the commission of the following overt acts, among others, in the Northern District of Oklahoma and elsewhere:

22. From on or about September 18, 1997 to September 22, 1997, defendant JAY LOWELL JONES and co-conspirators caused the incorporation of Dimat, Inc. in the State of Oklahoma.

23. From September 1997 through September 1998, defendant JAY LOWELL JONES and co-conspirators transferred and caused to be transferred funds including CFS funds in various amounts totaling more than \$60 million to Calamity bank accounts for the purpose of funding fraudulent purchases by Dimat of accounts receivable from the CFS trusts.

24. From September 1997 through September 1998, defendant JAY LOWELL JONES and co-conspirators transferred and caused to be transferred by means of wire communications in interstate commerce funds in various amounts totaling approximately \$60 million from Calamity

bank accounts to other bank accounts for the purpose of funding fraudulent purchases by Dimat of accounts receivable from the CFS trusts.

25. From September 1997 through September 1998, defendant JAY LOWELL JONES and co-conspirators secretly purchased accounts receivable from CFS trusts in the name of Dimat by transferring and causing to be transferred by means of wire communications in interstate commerce funds in various amounts totaling more than \$63 million from a Dimat bank account and another bank account to lockbox accounts maintained in the name of the various CFS trusts.

26. From October 1997 through October 1998, defendant JAY LOWELL JONES and co-conspirators caused CFS to create false and fraudulent monthly servicing reports which overstated collections by including the proceeds from the fraudulent sales of accounts receivable to Dimat and then sent the reports or caused them to be sent by commercial interstate carrier to investors and rating agencies.

27. On at least four occasions from December 1997 through September 1998, defendant JAY LOWELL JONES and co-conspirators fraudulently caused rating agencies to issue inflated ratings for securities issued by CFS trusts by falsifying the apparent performance of the trusts and by failing to disclose CFS's purchase of trust receivables through Dimat.

28. In or about September 1998, defendant JAY LOWELL JONES and co-conspirators fraudulently induced NationsBank (now known as Bank of America), a financial institution as defined in 18 U.S.C. §20, acting on its own behalf and as agent for related entities, to purchase securities from the CFS trust known as GREAT 1998-B in a total amount in excess of one-hundred-eighty-million dollars (\$180,000,000).

29. On or about April 8, 1998, a co-conspirator caused a false and fraudulent letter to be distributed to rating agencies and investors which falsely explained that CFS's poor collection performance in March 1998 was attributable to three specific reasons and omitted the material fact that CFS's comparatively poor performance was due to the company's failure to sell accounts receivable from the CFS trusts to Dimat or any other buyer that month.

30. Between October 15, 1998, and October 19, 1998, defendant JAY LOWELL JONES and a co-conspirator created false and fraudulent stock transfer documents which purported to substantiate sales of CFS stock by JONES to a co-conspirator.

31. On or about October 19, 1998, defendant JAY LOWELL JONES and co-conspirators delivered and caused to be delivered the fraudulent stock transfer documents to CFS executives in an effort to disguise the co-conspirators' role in the scheme.

All in violation of 18 U.S.C. §371.

DAVID E. O'MEILIA  
UNITED STATES ATTORNEY

by: \_\_\_\_\_  
Douglas A. Horn  
Assistant United States Attorney  
Chief, Criminal Division